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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|---------------------------|----------------------------|------------------|
| 10/037,431 | 10/29/2001 | Joseph William Tuomikoski | 21452-00002 | 7163 |
| 27144 | 7590 | 12/18/2003 | | |
| FOSTER, SWIFT, COLLINS & SMITH, P.C. 313 SOUTH WASHINGTON SQUARE LANSING, MI 48933 | | | EXAMINER NGUYEN, DINH Q | |
| | | | ART UNIT | PAPER NUMBER |

3752

DATE MAILED: 12/18/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/037,431

Applicant(s)

TUOMIKOSKI ET AL

Examiner

Dinh Q Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-12, and 16 is/are rejected.
- 7) ☒ Claim(s) 8 and 13-15 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's election with traverse of the invention elected in Paper No. 4 is acknowledged. The traversal is on the ground(s) that a process that requires using gloves on the user's hand is materially different than the process claimed in claims 17-21. This is not found persuasive because other than the gloves on the user hand, a desired location for deploying and collecting the dispenser after finished is materially different than the product claimed in claims 1-16, since the product of claims 1-16 can be use at any locations such as scent diffuser for a closet or a jewelry box and can be left in the closet or the jewelry box long after the diffuser is finished. The scent diffuser of claims 1-16 does not have to be use with a luring scent and could be use with any desired scents such as perfume or insecticide.

The requirement is still deemed proper and is therefore made FINAL.

Specification

2. The specification is objected to because of failure to properly disclose the limitation "a tab extending up through the bore at the center axis" of claim 8.

Claim Objections

3. Claims 1 and 13 are objected to because of the following informalities:

In claim 1:

- Line 5, line 6, and line 17, "the first body" should read —the first hemispherical body—.

- Line 9, line 11, and line 12, "the second body" should read --the second hemispherical body--.
 - Line 19, "the second flange" should read -- the planar second flange--.
- In claim 13, line 2, "and second body" should read --and second hemispherical body--.

In claim 2, lines 2 and 3, "the second body" should read --the second hemispherical body--.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7, 9-12, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Cathey et al.

The statement of intended use carries no patentable weight.

Lee is cited to disclose a scent dispensing with two hemispherical body members

14 and 16, an interior in each of the first and second hemispherical body members, a first and second outer peripheries, a planar first and second flanges 64, 66 (figure 4), a scent carrier 46 disposed within the second body, a releasable means 56/58 couple to the second hemispherical body members, and a releasable means 60/62 couple to the first hemispherical body members. Lee does not teach airtight seals in the two

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hemispherical body members. However, Cathey discloses a means 40 along the first outer periphery 18' to form an airtight seal against the second body 12, and a means 43 along the second outer periphery 16' to form an airtight seal against the first body 13. Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Lee with airtight seals as suggested by Lee. Doing so would provide a way to prevent leaking of scent material.

With respect to claims 3-7 and 9-12, Cathey discloses the first hemispherical body member 13 of transparent plastic and the second hemispherical body member with opaque material, thus to have different colors or materials or sizes for the bodies would have been an obvious matter of design choice to a person of ordinary skill in the art to configure the device of Cathey with different colors or materials or sizes, because one of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either colors or materials or sizes.

Allowable Subject Matter

6. Claims 8, 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to show the art with respect to a

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spherical body with two hemispherical body members: Moore, Bychowski, Haust et al., Telesca et al., Shuen, and Vasel et al.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh Q Nguyen whose telephone number is (703) 305-0248. The examiner can normally be reached on Monday-Friday 6:30-4:00 alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.



Dinh Q Nguyen
Patent Examiner
Art Unit 3752

dqn